

HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT

Work First New Jersey Program
Post 60-Month Pilot Program

Proposed New Rule: N.J.A.C. 10:90-2.20

Authorized By: Gwendolyn L. Harris, Commissioner, Department of Human Services

Authority: N.J.S.A. 30:1-12 and P.L. 1997, c.13

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2003-161

Submit comments by July 4, 2003 to:

Miguel Mendez, Administrative Practice Officer
Division of Family Development
P. O. Box 716
Trenton, New Jersey 08625-0716

The agency proposal follows:

Summary

As the Department is providing a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The proposed Work First New Jersey (WFNJ) Post 60-Month Pilot program is an intensive, structured set of services directed at recipients who have received 60 months of WFNJ program assistance, have no identifiable barrier to employment, and have been unable to move off welfare to self-sufficiency. N.J.S.A. 44:10-53 gives the Commissioner the authority to implement programs as pilot or demonstration projects if the pilot is likely to assist in promoting the objectives of the WFNJ program, or to promote the objectives of the Title IV-D child support enforcement program in the State. The Commissioner may waive compliance with the requirements of the WFNJ program to the extent the Commissioner deems necessary to carry out the project.

Recipients that have been in receipt of WFNJ benefits for 60 months, and do not have any identifiable disability or other barrier to employment, will be eligible to continue to receive their full cash assistance grant for up to 24 months, as long as compliance with the program is maintained. In addition, parents will be eligible for Temporary Assistance for Needy Families (TANF) core social and work support services. Customized and intensive case management services and, as appropriate, substance abuse treatment and mental health services shall be available to all pilot program participants. The enhanced services are provided to participants based upon the development of a new Individualized Responsibility Plan. A recipient shall sign a request to participate in the new program. This document will include a statement of willingness to comply with program requirements.

Social Impact

The proposed new rule will have a positive impact on clients who continue to need assistance, but are unable to become self-sufficient, because it protects children while promoting self-sufficiency and personal responsibility of their parents.

Permanently ending cash assistance could result in splitting up families because under current law, the children would still be eligible for benefits if they are taken care of by a relative other than a parent. Permanently ending cash assistance for children who remain with their parents also could be harmful to the child's welfare because of a major loss of income.

Economic Impact

Those individuals who are still in need of assistance beyond the time limits will be able to continue to receive assistance for up to 24 months as long as they continue to cooperate with the program requirements. The new program will not require new Federal or State resources.

Federal Standards Statement

The proposed new rule is not subject to any Federal requirements or standards; therefore, a Federal standards analysis is not applicable to the rulemaking.

Jobs Impact

It is the position of the Department that the proposed new rule would not result in the generation or loss of jobs.

Agriculture Industry Impact

The proposed new rule has no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed new rule has been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rule imposes no reporting, recordkeeping or other compliance requirements on small businesses; therefore, a regulatory flexibility analysis is not required. The rules govern a public assistance program designed to certify eligibility under the WFNJ program for a low-income population by a governmental agency rather than a private business establishment.

Smart Growth Impact

The proposed new rule will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposed new rule follows:

10:90-2.20 Work First New Jersey Post 60-Month Pilot Program

(a) The WFNJ Post 60-Month Pilot program shall provide assistance to WFNJ recipients beyond the 60-month time limit. In order to be eligible for assistance under the pilot program, households shall meet at least one of the extreme hardship criteria delineated at (a)1 through 8 below. Extreme hardship involves situations in which the recipient or the recipient's dependent child(ren) would be subject to extreme hardship or incapacity in the event of a termination of benefits (see N.J.A.C. 10:90-6). Extreme hardship shall be defined as situations that would result:

1. Due to extenuating circumstances, such as a lack of transportation or available child care to support work;

2. When, during a review of the case record, it is determined that

periods of temporary incapacity experienced by the individual which resulted in work deferrals of more than 12 months, did not allow him or her sufficient time in which to gain self-sufficiency during the receipt of 60 months of cash assistance;

3. From a situation in which the individual began work activities immediately as scheduled, has cooperated throughout all phases of the WFNJ program, has been fully compliant in the last year, and has no more than one sanction in the prior 12 months for failure to comply with any aspect of the program, but fails at the end of the 60 months to secure employment which renders the assistance unit financially ineligible for continued benefits. This situation will be subject to review by a State appointed panel for a final determination;
 4. When the individual experiences a family violence situation which renders the individual temporarily incapable of sustaining the family without continued support;
 5. When a current temporary deferral exists in accordance with provisions outlined at N.J.A.C. 10:90-4.10 and 4.11. For example, the period of incapacity may be due to a recent temporary physical incapacity, being in the third trimester of pregnancy, or providing care for a child under 12 weeks of age;
 6. When a recipient is engaged in full-time employment but remains eligible for benefits due to earned income disregards;
 7. When a recipient has not received an opportunity to engage in work activities as specified in the individual responsibility plan (IRP); or
 8. When a recipient was engaged in full-time employment and was income-ineligible for benefits, but was terminated from the employment through no fault of the recipient.
- (b) Assistance shall be granted in increments not to exceed six months for a total period of up to 24 months. Recipients shall be required to continue to meet financial and non-financial eligibility requirements for the WFNJ program. The pilot program shall serve individuals not otherwise exempt from time limits under N.J.A.C. 10:90-2.4.
- (c) Continuations of assistance due to extreme hardship or incapacity shall be evaluated prior to reaching the 60 month time limit on benefit assistance. Assistance of this nature shall require prior approval and authorization by DFD. The assistance unit's case record shall be reviewed to determine if cause exists to grant assistance due to extreme hardship or incapacity.
- (d) For the duration of the pilot program, new extensions shall not be granted under N.J.A.C. 10:90-2.5. Instead, all individuals who have exhausted 60 months of benefits, and who are not exempt from time limits, may be eligible to receive assistance under the pilot program.
- (e) Prior to receiving assistance under the pilot program, a recipient shall sign a request to participate in the new program. This document shall include a statement of willingness to comply with program requirements.

(f) Pilot program participants shall cooperate in the development of a new IRP. The IRP shall be updated every six months.

(g) When a decision is made to sanction a recipient for failure to be in substantial compliance with the IRP, without good cause, the participant is to be notified via a sanction notification letter of his or her non-cooperation, the sanction penalty that will be imposed unless cooperation occurs, and that the individual can avoid the sanction if he or she comes into compliance or demonstrates good cause for not complying.

1. The recipient shall have 10 calendar days from the date of the sanction notification letter to contact the agency worker in order to begin participation in a previously assigned activity, agree to begin a new activity, or provide good cause for the initial non-cooperation.

i. Agreement to begin or continue participation in an assigned activity or the provision of good cause for non-cooperation shall end any further action being taken to impose the original sanction.

ii. Failure, without good cause, to begin or continue to participate in the agreed-upon assigned activity after the conciliation process, shall initiate an immediate sanction imposition process with a 10-day adverse action notice, describing the recipient's continued non-cooperation in the assigned activity and the sanction penalty and duration.

2. Failure, without good cause, to respond to the sanction notification letter shall be considered as refusal to cooperate without good cause. This action shall result in the processing and imposition of the sanction.

i. Imposition of the sanction penalty shall require a 10-day adverse action notice, describing the recipient's non-cooperation in the assigned activity and the sanction penalty and duration.

3. Once a 10-day adverse action has been issued to implement a WFNJ sanction, the sanction shall be imposed unless the recipient provides good cause for failing to comply, or demonstrates compliance by attending the assigned activity prior to sanction penalty imposition, which is effective as of the first day of the following month.

(h) Failure to be in substantial compliance with the IRP, without good cause, shall result in a loss of cash assistance benefits to all members of the assistance unit for a minimum of three months. During the three-month sanction period, recipients shall remain eligible to receive Emergency Assistance provided that they meet eligibility criteria at N.J.A.C. 10:90-6.

1. If an intent to comply by the person(s) in noncompliance is not evidenced by the end of the three-month period, the case shall be closed for cash assistance benefits and reapplication shall be required in order to receive cash assistance benefits. Upon reapplication, the person(s) in noncompliance shall be required to demonstrate a willingness to comply, prior to cash assistance being granted.

i. Anytime prior to the end of the applicable sanction period, the individual(s) in noncompliance may indicate his or her intent to

comply by notifying the county or municipal welfare agency, as appropriate. However, the loss of cash assistance shall continue for a minimum three-month sanction period. The individual in noncompliance shall be required to demonstrate willingness to cooperate with and/or participate in WFNJ activities as follows:

- (1) The WFNJ individual shall agree to comply with either the activity in which he or she was previously engaged or another activity which is determined appropriate for that individual. In order to demonstrate willingness to comply, the individual shall participate for a period of up to two weeks as determined by the county or municipal agency worker, as appropriate, based on the particular requirement to be satisfied and individual case circumstances.
- (2) In no event shall an intent to comply period be waived due to the unavailability of appropriate activities. In such instances, individuals may be assigned to an individual job search or community work experience activity to demonstrate compliance.
- (3) An intent to comply period of up to two weeks shall not be required when compliance by the individual only requires the completion or signing of the IRP.
- (4) If the individual fails to participate, as designated, during the intent to comply trial period, the assistance unit will be terminated from cash assistance.

ii. When there is evidence that substance abuse directly contributed to an individual's noncompliance with an assigned WFNJ work activity and that individual indicates an intent to comply, a referral to the Substance Abuse Initiative (SAI) Clinical Care Coordinator (CCC) for assessment shall be offered (see N.J.A.C. 10:90-18).

- (1) If the SAI CCC determines that treatment is needed, the individual shall comply with an assigned treatment program for a period of two weeks to show an intent to comply.
- (2) If the SAI CCC determines that the individual does not need treatment, the intent to comply period shall have been met.

iii. A case that reapplies after being closed due to sanction status shall be required to show an intent to comply prior to issuance of cash assistance.

iv. A case that voluntarily closed prior to an imposition of a sanction that reapplies shall not be required to show an intent to comply since the prior sanction was never imposed.

v. An individual's case that was closed due to a sanction for non-cooperation may be eligible for post-TANF benefits if the individual is subsequently employed (see N.J.A.C. 10:90-4.5).

- (i) During a period of ineligibility, an individual may apply for and receive benefits if eligible under exemption criteria delineated under N.J.A.C. 10:90-2.4.
- (j) WFNJ Post 60-Month pilot program participants shall continue to be eligible for WFNJ social and work support services.
- (k) As a condition of continued eligibility, participants shall receive and cooperate with individualized and intensive case management, and, if appropriate, substance abuse treatment and mental health services.
- (l) An individual who has exhausted 60 cumulative months of WFNJ benefits shall be eligible to reapply for and receive assistance after his or her case has been closed if he or she meets the criteria under this section.
- (m) The following concern cases which are in extension status at the beginning of the pilot program:

 - 1. Cases currently in extension status under N.J.A.C. 10:90-2.5 shall remain in extension status until the end of the current extension.
 - 2. As indicated in (b) above, no additional extensions shall be granted once the current extension has expired.
 - 3. Individuals that enter the pilot program shall be eligible for up to 24 months of assistance regardless of the length of time previously spent in extension status.